

Response to Election of Species Requirement

In the present Office Action dated, February 1, 2001, the Examiner required election of species among:

- (a) species of R¹, R², R³ and X recited in claims 1 and 2,
- (b) species of pharmaceutical compounds recited in claim 3, and
- (c) diseases listed in claims 7, 14, and 15.

The requirement to elect species among the R¹, R², R³ and X groups recited in claims 1 and 2 and the pharmaceutical compounds recited in claim 3 is rendered moot due to the above amendments. Claim 1 as amended does not recite the R¹, R², R³ and X groups and claims 2 and 3 have been cancelled.

Applicants provisionally elect, as the single disclosed species, p15-deoxyspergualin, listed at pages 1, line 37, and 2, lines 1 and 35, of the specification. Pursuant to 37 C.F.R. § 1.146, should the elected species be found allowable, Applicants expect the Office to continue to examine the full scope of the claimed subject matter to the extent necessary to determine the patentability thereof, i.e., extending the search to the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

Applicants respectfully traverse the election of species requirement concerning the hereditary disorders listed in claims 7, 14, and 15. This election of species requirement fails to comply with PCT rules 13.1 and 13.2 because the Office has failed to take into account the intended effect of the invention in the treatment of these disorders. PCT Rule 13.1 reads as follows:

The international application shall relate to one invention only or to a group of inventions so linked as to form a single

general inventive concept ("requirement of unity of invention").

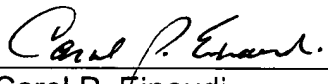
Claim 7 is directed to employment of a gene therapy treatment and is indirectly dependent (through claim 5) on claim 1. Claim 1 is directed towards, *inter alia*, increasing the tolerance of a mammal to transgenic cells. Gene therapy inherently involves transplanting transgenic cells into a mammal. Thus, in light of claim 1, the tolerance to gene therapy will be improved regardless of the particular disease being treated. Consequently, the invention described by claims 7, 14 and 15 involves a single general inventive concept under PCT Rule 13.1. Thus, Applicants respectfully request the withdrawal of this requirement.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: April 2, 2001

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